

PENSIONS AND INCREASE OF PENSIONS TO CERTAIN SOLDIERS AND
SAILORS OF THE REGULAR ARMY AND NAVY, ETC.

MAY 11, 1910.—Ordered to be printed.

Mr. SCOTT, from the Committee on Pensions, submitted the following

REPORT.

[To accompany H. R. 22637.]

The Committee on Pensions, to whom was referred the bill (H. R. 22637) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., have examined the same and report:

The report of the Committee on Pensions of the House of Representatives, hereto appended, is in part adopted, and the passage of the bill is recommended when amended as set out at the close of this report, the reason for such amendments being there stated.

[House Report No. 712, Sixty-first Congress, second session.]

The Committee on Pensions, to whom was referred sundry bills granting pensions and increase of pensions for certain soldiers and sailors of the Regular Army and Navy, etc., submit the following report:

This bill is a substitute for the following House bills referred to said committee:

H. R. 1068. John G. Patton.
3110. Emil F. Wurzbach.
3203. Henry W. Ellis.
3215. Jerry C. Campbell.
6017. Arthur T. Whipple.
6566. William Canady.
6655. Albert E. Longman.
6925. Murray R. Marshall.
6969. William E. Woodward.
7704. Biddy Lockwood.
8907. Sadie M. Lowell.
9124. William Willige.
12097. Seth B. R. Tubbs.
12763. James F. Malin.
12882. Norman W. Rayburn.

H. R. 14279. Eugene H. Pease.
15483. Henry H. Minor, alias Harve
H. Minor.
15985. John A. Rafter.
16632. Ford C. Richardson, alias
Hirsch Richardson.
17210. John McLaws.
17386. Elizabeth F. Stewart.
19600. David G. Connell.
19827. John Da Silva.
19879. Mary Elseser, formerly Mary
Steil.
21099. John Young Rankin, sr.
21560. John Klay.

H. R. 1068. John G. Patton, 607 Plum street, Macon, Ga., was a private soldier of Company D, First Regiment Georgia Volunteer Infantry, from August 8 to November 18, 1898, when honorably discharged and mustered out with his company.

He made an application for pension under the general law November 21, 1902, alleging that while in service at Chickamauga Park, Knoxville, and Macon, Ga., he contracted rheumatism, developing iritis, causing blindness. The claim was rejected June 11, 1903, upon legal ground that the disabilities did not originate in the service but developed thereafter, as shown by the statement of the claimant.

Such statement was to the effect that he had no symptom of rheumatism before his enlistment and that during his service he was well except for prolonged constipation; that in June, 1899, rheumatism made appearance and grew worse until in October he was confined to his bed and unable to rise for two months, his physician pronouncing the disease rheumatism due to inactive liver; that soon thereafter the eyes became inflamed and that the vision gradually failed until total blindness ensued.

The official records do not indicate that defects were found on physical examination at enlistment and afford no information as to medical treatment during service.

Dr. S. G. Worley stated that he treated soldier during the month of March, 1901, for complete occlusion of the iris resulting from a rheumatic iritis of about one year's standing; that he performed an operation but could not restore the vision.

Dr. L. S. Alexander agreed with Doctor Worley as to the origin of the blindness.

Several affidavits were filed in the claim showing sound health of soldier prior to his enlistment and his rheumatic attack following discharge with failure and complete loss of vision thereafter.

The actual incurrence of the blindness in the military service admittedly can not be proved. The soldier is shown by evidence accompanying the bill, medical in character, to be unable to provide for himself by any ordinary occupation and to have no means of support and no income from any source.

It is believed that the evidence fairly justifies the conclusion that the deplorable condition of the soldier from blindness may be due at least in part to service conditions, and that there is an equitable title to relief in the amount of \$20 per month, which allowance is respectfully recommended.

H. R. 3110. Emil F. Wurzbach, San Antonio, Bexar County, Tex., served in Capt. P. H. Rogers's Company F, Mounted Battalion, Texas Volunteers, from December 22, 1854, to March 21, 1855, in the Texas and New Mexico Indian war. He is receiving a pension of \$8 per month, the rate allowed by law to the survivors of said war.

In a sworn statement accompanying the bill claimant sets forth that he is aged 72 years; that he is incapacitated for earning his support by manual labor; that he owns real estate of the value of about \$500 and that his annual income aside from his pension is but about \$80.

There are many precedents for the proposed legislation and a rating of \$16 per month is respectfully recommended.

H. R. 3203. Henry W. Ellis, San Saba, San Saba County, Tex., served in Capt. J. H. Conner's company Texas Rangers, from December 2, 1857, to March 2, 1858, participating in the defense of the frontier. He is pensioned at the rate of \$8 per month under the act of May 30, 1908.

The soldier states in a sworn petition accompanying the bill that he is aged 83 years and that he is incapacitated for earning his support

by manual labor; he also states that he owns real estate of the value of \$650. He avers that his annual income from all sources is about \$150.

There are many precedents for the proposed legislation, and a rating of \$13 per month is respectfully recommended in this instance.

H. R. 3215. Jerry C. Campbell, Campbellton, Atascosa County, Tex., served in Capt. William R. Henry's company of Texas Rangers, from September 15, 1855, to October 15, 1855, participating in the defense of the frontier. He is pensioned at the rate of \$8 per month under the act of May 30, 1908.

In a sworn statement accompanying the bill claimant sets forth that he is aged 76 years; that he is incapacitated for earning his support by manual labor and has an aged and invalid wife; that he owns a small homestead of the value of \$250, and that his annual income from all sources is \$100.

There are many precedents for increasing the pensions of participants in early frontier defenses during Indian disturbances, and a rating of \$16 per month is therefore recommended.

H. R. 6017. Arthur T. Whipple, 49 Nashua street, Woburn, Middlesex County, Mass., was a private and corporal of the Tenth and Third Companies United States Volunteer Signal Corps, from June 21, 1898, to May 11, 1899, when he was honorably discharged.

He applied for pension January 24, 1903, on account of chills and fever or malarial poisoning, and on May 11, 1904, the claim was rejected on the ground that the alleged disability was not shown by medical or other satisfactory evidence to have existed at discharge or to have continued thereafter, and also because no disability was shown from date of filing. Two applications, with testimony, for reopening have been denied.

The claimant's service was performed in Cuba during the war with Spain. There is a record of treatment for intermittent malarial fever from February 1 to 11, 1899; of three days' treatment for acute diarrhea in July, 1898, and for syphilis from October 22, 1898, to January 17, 1899. The soldier denies having had syphilis; admits that he had gonorrhea, and the board of examining surgeons which examined him at Worcester, Mass., on May 27, 1903, examined him with special respect to syphilis and reported that it could find no evidence that he ever had that disease. It found no evidence of chills and fever either.

Notwithstanding no evidence of chills and fever was found on medical examination in 1903, various physicians have testified to treatment for that disease every year from 1901 to 1908, inclusive, except 1902 and 1905.

Lay witnesses, fellow workmen, testify to his having chills and fever every year from 1901 up to the present time. Some of them state that they relieved him at work as telegraph operator, because he was having chills, and others state that he had to give up positions at different times because of that disease.

Testimony filed with the bill indicates that the soldier is in very poor health and unable to perform manual labor. One physician says he has had a hemorrhage of the lungs, and unless he can take better care of himself will ultimately die of consumption.

After careful consideration of all the evidence it is the opinion of your committee that this man's condition from malarial poisoning is due to his army service, and they respectfully recommend favorable

action, granting pension for the disease named, subject to the provisions and limitations of the pension laws as to the rate.

H. R. 6566. William Canady, of Croton, Licking County, Ohio, was a private soldier of Company G, Seventh Regiment Ohio Volunteer Infantry, in the war with Spain, from June 20, 1898, to November 6, 1898, during which period he was at home on furlough from September 27 to October 27, 1898. In all he had 109 days actual service.

On April 24, 1908, the soldier applied for pension on account of abdominal rupture contracted at Camp Alger, Virginia, in July, 1898, and disease of the stomach incurred about the same time. He was treated for subacute gastroenteritis, diagnosed also as dysentery, on July 12 and 13, and for simple fever October 31 to November 2, 1898.

The claim was specially examined, and it was then disclosed that the soldier was a recruit who had tried to enlist in the same company at its organization, but was rejected as unfit. It was also disclosed by his divorced wife, from whom he was separated before his army service, and with whom he never afterwards lived or associated, they living several miles apart, that his rupture existed before his military service commenced.

The soldier was examined June 17, 1908, by the board of surgeons at Mount Gilead, Ohio, which recommended a rate of \$30 per month, stating that—

This claimant is so permanently disabled from ventral hernia and mitral regurgitation as to be totally disqualified for manual labor.

Nothing was recommended for disease of stomach.

The claim was rejected April 3, 1909, on the ground that the hernia existed prior to enlistment and because no disability from disease of stomach was shown.

Filed with the bill is the affidavit of a physician in which it is stated that the witness has—

known William Canady for twenty-five years and knows there is quite a change in his condition in the past year or two, as there is a loss of flesh (gradual) and incontinence of urine both day and night, frequent pain in head and back; increased heart action, and inability to perform more than one-third of an ordinary day's labor. The above facts were obtained by personal examination.

From a careful consideration of the facts presented in this case your committee is convinced that the service origin of abdominal rupture is established, and they respectfully recommend allowance of pension at the rate of \$17 per month.

H. R. 6655. Albert E. Longman, Soldiers' Home, Minneapolis, Minn., was a private soldier, Hospital Corps, U. S. Army, during the occupation of Cuba following the war with Spain, having been enlisted January 9, 1899, and honorably discharged for disability December 31, 1899. He applied for a pension under the general law February 10, 1906, alleging that about November, 1899, his kidneys became affected and that he also incurred dysentery. The bureau rejected the application September 14, 1906, on the ground that there was no record or medical or other sufficient evidence to show army origin and continuance for dysentery, and as to disease of kidneys, that a ratable disability was not found independent of an injury of the back received subsequent to discharge.

The official records show that soldier was on duty at the military hospitals at Habana and Puerto Principe, Cuba, from January, 1899,

until discharged; also that he was sick therein August 11 to 17 and received treatment for abscess of left instep, and from August 25 to December 30, 1899, acute catarrhal dysentery, complicated by varicose veins of the left leg, all in the line of duty.

The record of physical examination at enlistment shows only previous illness of infantile troubles. The certificate of disability for discharge contains the statement by the lieutenant and assistant surgeon commanding the district hospital near Puerto Principe that soldier became unfit for duty about August 25, 1899, the disease (varicose veins) having been contracted about May 15, 1899, in Habana, and that according to the claim of the soldier, he was engaged in lifting and handling iron bedsteads in the Habana hospital when they were first noticed. This officer stated that the origin of the disability as claimed was not known personally by him or anyone at hand at the time of making his certificate. The surgeon certified that soldier was incapacitated by varicose veins of the left leg, causing pain and numbness on exertion, cause of same not known, but not in the line of duty since soldier had stated that he had varicose veins before enlistment.

Two medical examinations by boards of surgeons under the claim were had, the first at Minneapolis, October 31, 1900, the second at St. Louis, Mo., April 4, 1906. The former resulted in ratings of \$4 per month for varicose veins of left leg, \$4 for piles, \$6 for rheumatism, \$6 for heart disease, and \$6 for catarrh. The latter examination recommended \$6 for disease of kidneys, varicose veins not being rated but described as present from about 5 inches above the left knee to below the calf. Soldier stated in his claim that he was an active and regular laborer up to the time of his enlistment, doing heavy work upon railroads, etc., and that ever since discharge he has been physically unable to perform other than light labor, and that irregularly.

The evidence with the bill consists of the affidavits of two physicians who state that in addition to the varicose veins soldier has disease of heart, organic, with laxity and chronic inflammation of the bowels.

Two lay affidavits are also filed stating that soldier can not labor to earn his support; that he has no property except slight personal effects, and no income, but is dependent upon the home.

It is respectfully submitted that the evidence fairly shows the incurrence of disease of kidneys and dysentery in the military service, and the recommendation made that the name of the soldier be placed upon the pension roll at the proper rate to be determined therefor.

H. R. 6925. Murray R. Marshall, Cedarville, Greene County, Ohio, was enlisted April 7, 1908, in Company A, Twenty-seventh Regiment United States Infantry, and honorably discharged July 28, 1908, at Fort Monroe, Va., on surgeon's certificate of disability.

He applied for pension August 5, 1908, stating that about April 16, 1908, while on the transport *Kilpatrick*, bound for Cuba, during a storm he fell down a hatchway and injured his right shoulder. His application was rejected September 22, 1908, upon the ground that the disability was not incurred in the line of duty but resulted from a fall during an epileptic seizure and that the disease, according to the record of the War Department, existed prior to enlistment. The record referred to fails to show any defects found on physical examination at enlistment and states that treatment was given April 16 to discharge, first for fracture of right scapula from accidental fall in the line of duty, a later diagnosis being same

fracture while unconscious from epilepsy, not in line of duty. Treatment was also for goiter; line of duty doubtful.

The surgeon's certificate of disability for discharge contains the information, probably from soldier's statement, that since having had brain fever at the age of 6 years he had fainting and unconscious spells. The certificate of the army surgeon gives cause of discharge epilepsy (*petit mal*), from which soldier loses consciousness and falls, frequently injuring himself; that the condition was not due to duty but had existed long prior to enlistment.

The record and the evidence filed with the bill are in conflict. It appears from the latter that soldier enjoyed rugged health as a boy and young man. This fact is testified to by two physicians, who state they have known him nearly all of his life. It is also shown by this and other evidence that he has been ailing ever since discharge, and that the injury of shoulder has greatly interfered with his efforts to gain a livelihood, so that he is dependent for support upon his parents, who are poor.

The soldier himself swears that soon after his enlistment while at Columbus Barracks he was vaccinated and had a very sore arm; that en route to Cuba he was suffering from same, with a fever and seasickness, and went to hospital for treatment, where he was given medicine and advised to repair to his quarters. He did so, and upon reaching the hatch to go below the vessel lurched as he took the first step; he fell and did not regain his senses until some days after in hospital in Cuba; that as soon as he could be moved he was returned to the United States and discharged.

As to epilepsy, five affiants, including the mayor of Cedarville, the mother of the soldier, and others, state that their knowledge of him during over twenty years has been intimate, and that he positively had no epilepsy or other character of fits at any time before he entered the army and no sickness save ordinary ailments of children.

It is recommended that the soldier receive an allowance of \$12 per month, conceding the doubt established by the record of service origin of his disability.

H. R. 6969. William E. Woodward, Alva, Woods County, Okla., was chaplain of the Twenty-first Regiment Kansas Volunteer Infantry during the war with Spain, having been enrolled May 10, 1898, and honorably discharged and mustered out December 10, 1898.

He filed an application for pension at the bureau May 3, 1906, alleging that at Fort Leavenworth, Kans., about November, 1898, he contracted rheumatic carditis. The bureau rejected his claim November 7, 1906, on the ground that, as shown by the War Department record, the disability did not originate in the service, but existed prior. The action of the bureau was according to its practice, though the record of prior unsoundness consists of the declaration of the officer preliminary to muster out, as follows:

Had some symptoms before entering the army. Greatly aggravated by exposure in camp and around the hospital while on duty.

The surgeon who apparently examined him at that time certified that the heart was normal and that there was a consistent history of rheumatic pains about the hips and chest.

On appeal to the honorable Secretary of the Interior the adverse action of the bureau was affirmed.

The official records state that no notation of physical defects upon examination at enlistment has been found. The medical records include a certificate dated September 8, 1898, showing him suffering from overwork and malaria contracted while caring for the sick.

Medical examination under the claim was had by the board of surgeons at Newkirk, Okla., September 5, 1906, who rated \$12 per month for rheumatic carditis, \$6 on rheumatism, and \$6 on lung disease.

An affidavit accompanying the bill by the officer states that he did indeed have slight symptoms of rheumatism prior to entering the army, but was in no sense unfitted thereby for his vocation or for manual labor, and that to the best of his belief there was no heart affection from rheumatism before his military service; that he suffered much from rheumatism while in the performance of his duty as chaplain in the hospital and field and received treatment from the regimental surgeon, Major Armstrong, and Hospital Steward Brittenstein, both of whom died in the Philippines while serving in another regiment and their statements therefore could not be obtained.

Colonel Fitch testified that the officer was subjected to severe exposure and that he knew he suffered as claimed.

Major Brown testified that Surgeon Armstrong, before referred to, stated to him that Chaplain Woodward had rheumatism of the heart and probably would never again be well.

Doctor Share testified that he was frequently called for treatment for heart trouble, etc., during the years 1901 and 1902.

Dr. C. G. Elliot stated that soldier was critically ill with heart trouble in September, 1905, apparently a chronic form.

Same conditions are later shown by other medical evidence both in the claim and with the bill, from which it appears that the officer is wholly unable to pursue his professional calling, having virtually lost his voice, and that the condition of his heart prevents him from performing any manual labor; also that he is dependent upon others for support.

After careful consideration of all the evidence in this case your committee are of the opinion that the present condition of the officer from disease of heart is due to his army service, and they respectfully recommend the allowance of pension at the rate of \$20 per month.

H. R. 7704. Bidley Lockwood, R. F. D. No. 1, Catlettsburg, Ky., mother of James F. Lockwood, late sergeant of Company F, First Regiment United States Infantry, applied for pension August 3, 1904, and her claim was rejected February 1, 1906, on the ground that the soldier's death in service was not due to service in line of duty.

The soldier's service commenced July 29, 1898, and ended February 26, 1899, as a member of Company B, Second United States Infantry, in the war with Spain. He reenlisted March 30, 1899, in Company F, First Regiment United States Infantry, and was discharged March 29, 1902, a corporal. He reenlisted March 30, 1902, in the same company and died December 23, 1903, as shown by the War Department records—

by reason of compression of brain, result of street accident, a sergeant. The soldier was absent with permission, taking a sleigh ride; sleigh was struck by a street car and soldier was killed almost instantly. Death occurred in line of duty.

The petitioner is 54 years of age, and the evidence shows that she and her husband are without any property except some household goods of the value of about \$25.

The evidence shows that the husband of claimant (soldier's father is in poor health and unable to earn a support for himself and the petitioner. Testimony filed with the bill shows these facts, and also that the soldier contributed to his mother's support before he went into the army and during his service.

Your committee are of the opinion that this case comes within the spirit and purpose of the law, and they respectfully recommend that a pension of \$12 per month be allowed, as proposed by the bill.

H. R. 8907. Sadie M. Lowell, 96 Alvarado avenue, Worcester, Mass., is the widow of Julius H. Lowell, late a private soldier of Company A, Second Regiment Massachusetts Volunteer Infantry.

His honorable service was rendered during the war with Spain, from May 3, 1898, to November 3, 1898. He applied for a pension under the general law May 17, 1899, and the same was allowed after his death, at the rate of \$6 per month, on account of chronic diarrhea and malarial poisoning contracted in the line of duty in the Cuban campaign. No medical examination by a board of surgeons was had, owing to the failure of soldier to appear as ordered, and the rate was fixed from other evidence. He died March 10, 1906, the certificate of death showing cause, myocarditis and appendicitis.

Mrs. Lowell filed a claim at the bureau March 23, 1908, which was rejected October 1, 1908, upon the ground that the fatal illness was not medically accepted as resulting from the diseases for which the soldier was pensioned, or otherwise shown to have been due to his military service. The claim was appealed and the honorable Secretary of the Interior affirmed the decision.

Dr. Charles B. Stevens filed an affidavit, of which the following is a copy:

* * * from continuous knowledge of Julius H. Lowell's health during the last thirteen years (I believe) that his death was the result of a chronic enteritis due to dysentery and malaria contracted in Cuba during the Spanish war.

The appendicitis was a part of the chronic enteritis, and the appendix finally ruptured and an abscess formed in the pelvis. An operation was done which under ordinary conditions would not have proved fatal. The operation was not an emergency operation. There was no general peritonitis, no secondary hemorrhage, practically no elevation of temperature, but the heart action kept getting weaker and more irregular during the ten days he lived after the operation. No food could be assimilated, but produced diarrhea, and myocarditis was the primary cause of death.

This myocarditis was chronic and the result of the malaria and dysentery contracted in Cuba.

Mr. Lowell's habits were good. He was not addicted to the use of alcohol nor the excessive use of tobacco.

Dr. L. F. Woodward testified in part as follows:

I had never been his physician until his entrance to the Worcester city hospital February 27, 1909. At that time he entered the city hospital suffering with abdominal pain referred to the right iliac region, and a diagnosis of appendicitis was made. The abdomen was opened in the usual way and a diseased appendix and a small quantity of pus evacuated. The abscess was well walled off, and his convalescence, so far as the abdominal operation was concerned, was progressing satisfactorily. A few days after the operation his pulse became irregular, his color was bad, and he gradually failed, dying March 19, apparently of myocarditis and exhaustion.

Similar though more detailed testimony was offered by Dr. Thomas Howell. The claimant was married to the soldier March 30, 1898, hence was his wife during the greater part of his service. She is the mother of two of his children, the elder of whom is 10 and the younger 5 years of age. Her own age is about 35 years.

An affidavit by Dr. V. B. Herrick accompanies the bill stating that she is a sufferer from serious female affections, but that since the death of her husband has been compelled to work as waitress in a restaurant in order to support herself and children.

Admitting the element of doubt of army origin of the death cause, your committee are of the opinion that the facts shown justify the extension of the benefit of the general law to this claimant, and recommend the allowance of \$12 per month with the usual provision for the minor children.

H. R. 9124. William Willige, 1122 West Seventh street, St. Paul, Minn., rendered about sixteen years nearly consecutive service in the Regular Army, having been originally enlisted December 27, 1877, and finally discharged August 18, 1899, on a surgeon's certificate of disability by reason of chronic diarrhea and gastritis. He receives a pension of \$8 per month for chronic diarrhea, which has been paid him since January 6, 1904, as a private of Company B, Seventh Regiment, U. S. Infantry.

His latest application for increase, filed July 31, 1907, has been rejected upon medical grounds that the rate is commensurate with the degree of disability. He has sought to establish claims for rheumatism, disease of heart, and impaired vision, which have been rejected owing to lack of evidence to show their incurrence in the military service and not being medically accepted as resulting from the disease accepted as of army origin.

He was last examined by the board of surgeons at Minneapolis, August 21, 1907, who found him totally blind, and recommended, on account of chronic diarrhea, the rate of \$8 per month. The soldier stated to the board that his eyesight had been failing since the year 1892, when he was yet in the service. In his claim for pension he alleged that same was due to straining vision at target practice. He is aged about 58 years.

A letter filed with the bill by the gentleman who introduced same shows soldier a man of good character, poor, wholly blind, and needing constant attendance.

Army origin of the blindness it is conceded is not conclusively shown, yet in view of the fact of the long service of the soldier and that there is evidence showing its inception during same, it is believed that substantial relief should be afforded him, and the recommendation of an allowance of \$30 per month is respectfully made.

H. R. 12097. Seth B. R. Tubbs, 18 West Colorado street, Pasadena, Cal., aged 79 years, is a veteran of the war with Mexico and civil war. He is a pensioner under the act of February 6, 1907, at \$20 per month, by reason of his age.

It is shown by the official records that he was a private soldier of Company K, Sixth Regiment United States Infantry, having been enlisted February 28, 1848, and honorably discharged July 31, 1848, at Jefferson Barracks, Mo., after service during the war with Mexico in that country. Also that he was enrolled April 29, 1861, and was first lieutenant of Company E, Fourth Regiment Wisconsin Volunteer Infantry, until August 18, 1862, when he resigned.

He was originally pensioned under the service act of January 29, 1887, at the rate of \$8 per month, from January 11, 1892, which rate was increased to \$12 by operation of the act of March 3, 1903.

It is shown by the evidence accompanying the bill, which includes the affidavit of a surgeon, that the claimant is practically blind, in indigent circumstances, subsisting partially on the charity of friends, and wholly unable to provide himself a livelihood at labor.

There are many precedents for the allowance of a pension of \$30 per month under the stated conditions, and your committee so recommend.

H. R. 12763. James F. Malin, National Soldiers' Home, Kennebec County, Me., was a volunteer soldier during the war with Spain, and has an honorable record, having been enlisted June 22, 1898, and discharged March 20, 1899, from Company K, Third Regiment Connecticut Volunteer Infantry.

He made application for pension September 10, 1907, and July 16, 1908, alleging that at Camp Onward, Georgia, in February, 1899, he contracted a heavy cold from exposure during a snowstorm which never left him, but developed into bronchial trouble and disease of lungs and that continual coughing and straining affected the heart. The claim was rejected April 8, 1909, on legal grounds of lack of record and other satisfactory evidence to show connection between disability of lungs and heart and the military service.

Medical examination was had by the board at Bridgeport, Conn., August 19, 1908, who reported marked appearance of emaciation and debility, with cough, expectoration, and hemorrhages—the right lung being diseased—for which the unusual rating of \$7 per month was recommended. The heart was also found affected and a rate of \$3 proposed.

The official records show soldier aged 22 years at enlistment, no physical defects being then noted. Record of medical treatment during service was not found. The company muster-out roll shows soldier sick in quarters August 30–31, 1898, in line of duty. He apparently disclaimed bodily impairment at discharge, and the captain and surgeon signed a certificate indicating that they had no knowledge. It is well known that these declarations preliminary to muster out are entitled to small credence, and in this case the claimant emphatically denies under oath that he was either physically examined or interrogated by any officer as to his condition at that time.

The question of origin rests mainly on the statements of the soldier and his comrades, of whom six testified in his behalf substantially that he suffered from the cold and cough from the time alleged during the remainder of his service. Four of these—David E. Flynn (a tent mate), Edward J. Gleason, Morgan J. Enright, and James W. Smith—stated that at various periods after discharge they were associated with claimant and observed that the same conditions were present. Gleason stated that he and claimant were employed in the same shop and that he was compelled to quit work because of his coughing. These witnesses are shown by War Department report to have been present at the time and place indicated by claimant and therefore in position to have knowledge of the facts.

Dr. M. J. Brooks testified, August 15, 1908, that "some years since" he examined soldier and found his case one of chronic ulcerative pulmonary tuberculosis, the history dating from army life and the disease steadily progressing.

Dr D. A. Hanrahan gave treatment about April 1, 1899, for the cough.

Dr. N. A. Warren attended claimant in October, November, and December, 1899, for lung trouble.

Medical and other affidavits with the bill are to the effect that soldier has a severe type of heart and lung disease with hemorrhages; that he can not perform manual labor, is confined to the home, and has dependent upon him a wife and three young children.

In view of the foregoing facts it is respectfully recommended that the soldier receive an equitable allowance of \$12 per month.

H. R. 12828. Norman W. Rayburn, National Military Home, Washington County, Tenn., was a private soldier of Company H, Sixth Regiment Illinois Volunteer Infantry, during the war with Spain, from June 16, to November 25, 1898, when honorably discharged and mustered out with his company at Springfield, Ill.

He first made application for pension under the general law June 22, 1899, alleging that while in the line of duty marching with his company in Porto Rico, in August, 1898, he was overcome by heat; that rheumatism resulted. In affidavits filed April 22, 1901, and June 30, 1904, he further alleged intolerance of heat, nervousness, headache, and dizziness resulting from sunstroke, and that he also incurred eczema, disease of heart, and diarrhea. In a declaration filed March 2, 1909, he realleged sunstroke and resulting vertigo. He also alleged paralysis of left side, but explained in affidavit filed March 20, 1909, that this resulted from a blow struck by a fellow-workman in June, 1907, subsequent to discharge.

The claim of eczema, rheumatism, diarrhea, disease of heart, headache, dizziness or nervousness were rejected October 24, 1904, upon medical grounds that a ratable degree of disability therefrom was not shown independent of the effects of specific disease, meaning syphilis. Sunstroke and resulting intolerance of heat were rejected upon legal grounds of no record and lack of other sufficient evidence to establish the claim of army origin, etc.

Claimant has twice sought to secure a reopening of his claim by filing additional evidence, but same has been denied.

The application last filed was rejected April 10, 1909, upon legal grounds that injury of head and resulting paralysis were not incurred in the service, but long after discharge.

As stated, the official records do not show treatment for sunstroke or any other cause in the service, nor do they indicate that any physical defects were found on examination at enlistment. The soldier declared at muster-out that he suffered from rheumatism, in which the examining surgeon corroborated him, locating its effect in the back.

The affidavit of J. P. Bohon was filed and stated that he saw claimant prostrated by heat and placed in an ambulance and taken away to hospital.

Dr. W. E. Pittman testified that he gave soldier treatment directly following discharge and up to January, 1903, for rheumatism, heart trouble, boils, etc.

Two other physicians testified that soldier has practically ever since his discharge been disabled to the probable extent of one-half.

Medical examination was had by the board at Monmouth, Ill., August 15, 1900, who reported there was heart disease ratable at \$8 per month, and undoubtedly due to the heat stroke. They also suggested the rate of \$8 per month on account of rheumatism affecting

the lumbar region. They stated that claimant was free from any evidence of vicious habits.

Another medical examination was had at the same place, August 17, 1904, by other doctors, who were instructed to carefully note conditions as to venereal disease. They state that soldier gave a history of syphilis in 1894, and that he walked in a rather unsteady way, but they did not describe any affection whatever from that cause, save to state that there was enlargement of the glands of the groin.

Several affidavits have been filed with the bill, including those of two physicians, stating that soldier is unable to perform any kind of manual or mental labor and that he is a sober, honest, poor man.

The allowance of \$12 per month is respectfully recommended in the belief, after full consideration of the facts, that the claim has equity.

H. R. 14279. Eugene H. Pease, Wapello, Louisa County, Iowa, was a corporal of Company F, Fifty-first Regiment Iowa Volunteer Infantry, during the war with Spain; having enlisted June 15, 1898, he was honorably discharged and mustered out with Nineteenth Company Signal Corps, U. S. Army, October 10, 1899, to which transferred at Manila, P. I., March 10, 1899.

He made application for pension under the general law October 17, 1904, alleging the incurrence of bronchitis and right varicocele in the line of duty during the month of August, 1898, in Camp Merritt, near San Francisco, Cal. The claim was rejected, after special examination, June 21, 1906, upon legal ground as to varicocele of no record, and lack of other satisfactory proof of service origin; as to bronchitis, that same existed prior to enlistment.

It is shown by the official records that no physical defects were noted on examination at enlistment; that soldier was sick during the months of July, August, September, and October, 1898, was furloughed for sickness thirty days from September 13, 1898, the same being extended to November 13, 1898.

The medical records show him under treatment August 5-9, 1898, cold; September 10-13, 1898, chronic bronchitis; September 16 to October 30, 1898, convalescing from measles; March 25 to April 7, 1899, gastro-enteritis; April 29 to May 12, June 2-4, 19-24, and July 17-19, 1899, diarrhea, all the foregoing in the line of duty.

It thus appears from the records and from the testimony of comrades that soldier contracted a severe bronchial affection from dampness and exposure at Camp Merritt, and was furloughed to his home in Iowa, where he remained under treatment about forty-five days, when upon telegraphic notice that his company was about to embark for the Philippines he at once rejoined it.

During the special examination it developed that while claimant had the health of the average young man, he had been subject to acute or temporary attacks of tonsilitis, though he is positive in his denial that he was ever down sick with either trouble, and his statement is fairly well corroborated by the persons in best position to have knowledge of the facts.

The evidence further is conclusive that he had not regained his health when he rejoined his command, but continued to cough and complain of pain in the lungs while en route to Manila and thereafter while in service. As to varicocele, soldier swears that it was due to wrench or exertion from heavy drilling in the sands about Camp Merritt and that he was furnished a suspensory bandage by Surgeon Fairchild and

continued to wear same during his furlough and thereafter while in service. Doctor Fairchild when communicated with could not recall the incident, but some of soldier's comrades swore that they saw the bandage in use, and one comrade testified that he obtained some of the bandages from claimant for himself. The actual incurrence of an injury likely to produce varicocele is not clearly shown. However, claimant and his witnesses are rated credible by the examiner.

Medical examination under the claim was had by bureau surgeons at Muscatine, Iowa, February 1, 1905. They recommended \$10 per month on disease of lungs; found the right varicocele 5 inches long by $2\frac{1}{2}$ inches in diameter, and recommended therefor \$6. Continuance following discharge of both disabilities is well enough shown by medical and other evidence.

In an affidavit accompanying the bill the soldier states that he is a married man with a family to support, owns no real estate, and because of his bad physical condition has been unable to work.

Dr. W. S. Grimes testifies that both lungs are affected; that there is extensive bronchitis, also liver, stomach, and bowel trouble.

Dr. J. H. Chittum gives similar testimony, and both physicians agree that soldier is incapacitated for labor.

An allowance of \$12 per month is respectfully recommended, your committee believing that the claim has merit.

H. R. 15483. Henry H. Minor, alias Harve H. Minor, has an honorable record as a corporal of Company H, Fourth Regiment Missouri Volunteer Infantry, during the war with Spain, from April 27, 1898, to February 10, 1899. He is a pensioner under the general law at \$17 per month, which he has received since November 21, 1906, on account of disease of stomach and liver and resulting disease of rectum, incurred in the line of duty.

He applied for increase February 14, 1907, alleging also fractured hip. Increase was also claimed November 2, 1907. These applications have been rejected upon medical grounds. Soldier, in declaration filed May 4, 1908, alleged rheumatism. The same was rejected upon both legal and medical grounds, of no record and insufficient other evidence to establish service origin, and that a ratable degree of disability therefrom had not been shown. The fracture of left hip was rejected upon the ground that its incurrence in the manner claimed was improbable, and that it would not be accepted as a result of rheumatism. Soldier claimed that while confined to his room by his army disabilities, and attempting to wait upon himself, the hip was wrenched, and about a week later his physician made an examination and informed him that it was broken.

Evidence filed in January, 1909, has been held not to warrant the reopening of the claim for rheumatism.

Medical examination under the latest claim for increase, was had August 5, 1908, by the board of surgeons at Fort Smith, Ark., who stated there was enlargement of liver, tenderness of abdomen, gaseous eruptions, and proposed a rating of \$6 for same. They found a large internal ulcerated pile, rated at \$12. The left thigh was found fractured, with $4\frac{1}{2}$ -inch shortening of the limb and wasting; \$17 was proposed for that cause.

The age of the soldier is about 34 years. His sworn statement accompanies the bill to the effect that he is totally unable to perform any labor, and is possessed of no property.

Dr. E. M. Rockwood files an affidavit in corroboration.

The gentleman who introduced the bill appends the following statement:

WASHINGTON, February 23, 1910.

DEAR MR. DICKSON: I have introduced a bill in the House, which has been referred to your committee, granting an increase of pension to Henry H. Minor, of Fort Smith, Ark., who served in the Spanish-American war.

I am especially interested in this case, because I am personally familiar with the facts, having known Mr. Minor before he enlisted in the Spanish-American war, and knowing his financial and physical condition.

He is now drawing a pension at the rate of \$17 a month, and the bill I have introduced increases this to \$30 per month. The physical condition of Mr. Minor for which he draws pension is fully set out in the papers. He had another severe injury, which was the direct result of the sickness caused by his service, the one which the Pension Office would not consider. While he was confined to his bed on account of diseases contracted while in the service, he broke one of his legs, and that leg now is from an inch and a half to two and a half inches shorter than the other one, and necessitates in getting around the use of a crutch or cane at all times, and also he is compelled to wear an iron or metal bracket on his foot to give his leg the proper length to enable him to walk at all.

As I said, I knew Mr. Minor before he entered the army, and I don't believe I ever saw a finer specimen of manhood. He was more than 6 feet tall and weighed about 200 pounds. Now he is a mere skeleton, having lost something like 60 pounds in weight, and from my own personal observation of him, I believe he is unable to do any kind of manual labor, and my best information is that a large part of the time he is confined to his bed, and I know further that he has absolutely no property of any kind or any other means of support than the small pension now allowed him. If there is any further information I can give you or the committee in connection with this case, I will be glad to get it.

Yours, very truly,

BEN CRAVENS.

HON. WILLIAM A. DICKSON,
Committee on Pensions, House of Representatives.

From the history of this case and the facts presented, your committee believe a pension of \$24 per month should be allowed, and they respectfully recommend such action.

H. R. 15985. John A. Rafter, North Tonawanda, Niagara County, N. Y., entered the military service as major and surgeon Twentieth Regiment Kansas Volunteer Infantry May 13, 1898, for the war with Spain, and was mustered out with field and staff October 28, 1899. His service was practically all rendered in the Philippines. He was appointed a surgeon by contract August 8, 1900, with rank of acting assistant surgeon, U. S. Army, the contract terminating June 15, 1903. This duty was also in active campaigns during the Philippine insurrection.

Major Rafter made application for pension under the general law December 13, 1905, alleging dysentery and hemorrhoids incurred about June, 1899, and that in the early part of that year the fingers of his right hand became contracted, the same condition soon affecting the left hand and resulting in what is medically known as "Dupuytren's contraction." The claim was rejected May 20, 1906, as to contraction of fingers of both hands on the ground of no record and the officer's declared inability to furnish satisfactory evidence of origin in service. That part based upon dysentery and resulting piles was waived by the claimant being unable to meet the requirements of the bureau.

The case is unusual and doubtless best explained by the affidavit of the officer, as follows:

I was mustered into the United States service as major and surgeon of the Twentieth Regiment Kansas Infantry, U. S. Army, on May 13, 1898. Was mustered

out with the regiment October 28, 1899. I reentered the service as a contract surgeon August 8, 1900. My contract was annulled June 15, 1903. Prior to entering the military service my health had been good.

In June, 1899, while on duty in the Philippine Islands, I contracted acute dysentery, which continued about a month. I was the only surgeon at the barracks in Manila at the time and continued on duty. I prescribed for myself the best I could, hence I have no "sick record." This attack of dysentery was followed by obstinate constipation. Hemorrhoids supervened and have continued from soon after the dysenteric attack mentioned to the present time.

During the early part of the year 1899 I first noticed a nocular and slightly contracted condition of the flexor tendons of the middle, ring, and little fingers of my right hand. This condition appeared in the palm of my hand, and while it was sensitive at times, I gave it but little attention, supposing I might have hurt it in some way, and the use of hand was not seriously interfered with, and an active campaign was in progress at the time. Some time later on I noticed my left hand was becoming involved in the same manner as my right hand. My recollection is I did no more than casually call the attention of some of the officers to the condition of my fingers, and continued my work. It is not likely any of the officers will recall the circumstances, nor do I recall now who the officers were. I did not even call attention to my hands when I was mustered out of service. I recognized what is known as "Duputren's contraction," and was not discommoded. The usefulness of my hands was not impaired. In August, 1900, I again entered the military service, and was ordered to China, and shortly after, in October, 1900, I was ordered to the Philippine Islands, where I remained until March, 1902. During this time my hands gradually became worse. The fingers of both hands, but more especially the fingers of my right hand, were considerably flexed and stiffened, and the usefulness of the hand impaired.

While I was in the Philippine Islands as a contract surgeon I was stationed at some isolated posts, usually with but one company of troops, no other surgeon being near. On one occasion, while in Manila, in October, 1901, I consulted Col. B. F. Pope, Colonel Harvey, and Lieut. Walter D. Webb, all of the Regular Army. Colonel Pope and Colonel Harvey advised noninterference. Doctor Webb thought an operation might do some good. No operation was performed. I arrived in San Francisco in March, 1902. I called Colonel (now Surgeon-General) O'Reilly's attention to the contracted condition of my fingers. He thought an operation would do no good. It is more than likely none of the officers I have named will recall the circumstances. Dr. Walter D. Webb might, perhaps, do so. The contraction and stiffening of my fingers has gradually progressed. The usefulness of my hands is much impaired. I was an oculist and aurist before entering the military service. I am unable at this time to do any surgery of importance. The sensibility of all my fingers is much impaired, and on account of pressure on the nerve filaments I have almost constant pain in my forearms and hands. I have never had rheumatism or any specific diseases. I do not know the cause of this disability in my hands.

The officer in his declaration preliminary to muster out from the first service declared he had incurred hemorrhoids; his colonel disclaimed knowledge, and the army surgeon who then examined him certified to the presence of external piles.

Medical examination was had by the board at Buffalo, February 14, 1906. A disability from dysentery and hemorrhoids estimated at one-fourth of total for rank was described and a double Dupuytren's contraction involving both hands was found, the board stating that the officer had been obliged to abandon his profession of surgery, which he formerly taught and practiced, and a rating for same of total for rank was proposed. In addition thereto two gunshot wounds were found, one of the right leg and one of the right index finger, reported as superficial and of little moment except as showing service and claimed to have been received in operations against insurgents.

Dr. N. W. Wilson, of Buffalo, N. Y., files an affidavit with the bill stating that there is a well-marked Dupuytren's contraction of the right hand and a fairly well-marked one of the left, in consideration of which the officer's usefulness in his profession is practically gone.

An allowance of \$20 per month is respectfully recommended in view of the serious special disability in this case, as the evidence fairly seems to show its incurrence in the line of duty.

H. R. 16632. Ford C. Richardson, alias Hirsch Richardson, Tilden, McMullen County, Tex., was a private soldier of Company G, Eleventh United States Volunteer Cavalry, from September 1, 1899, to July 2, 1901. A portion of his service was rendered in the Philippines, where he had various and severe attacks of tropical fevers; dysentery, becoming chronic, etc.

He was allowed a pension under the general law through the regular channels from August 25, 1902, on account of malarial poisoning and chronic diarrhea, at the rate of \$6 per month. He has since filed three applications for increase, namely, on September 17, 1906, January 15, 1907, and March 29, 1909. These have been rejected upon legal grounds that the rate of pension was commensurate with the degree of disability from the causes named. He was last examined by a board of surgeons at San Antonio, Tex., May 5, 1909, who stated that soldier was anemic and thin, tongue coated, liver enlarged, with general tenderness over region of stomach and entire abdomen, rectal membrane reddened and tender, general organism poorly nourished. Recommendations were made of \$6 for malarial poisoning and \$4 for chronic diarrhea.

Dr. J. A. T. Todd files an affidavit with the bill stating that soldier has serious heart affection, so that after walking 5 yards his pulse is accelerated 20 to 30 beats; that, in his opinion, this condition results from the army diseases; that any physical exertion accelerates the pulse beyond counting point. In this connection reference is made by the same physician in an affidavit filed in the claim December 19, 1903, as follows:

Ford C. Richardson applied to me for treatment soon after his return, over two years ago. I found he had a very bad case of malarial cachexia. He also had chronic diarrhea, which was contracted in the service in the Philippines, which has clung and still clings to him with every evidence of continued persistence. On the least physical exertion his fever returns and resists all treatment for days. He suffers continuously from the diarrhea, and every little while has an acute exacerbation, which prostrates him. He has exaggerated nervousness and palpitation of the heart on slightest effort (physical). I can safely say that he is a physical wreck and wholly incapacitated from gaining a livelihood by manual labor.

It is believed that the foregoing facts warrant an additional allowance because of the service disability, and therefore a pension of \$20 per month is proposed.

H. R. 17210. John McLaws, Tooele, Tooele County, Utah, aged 82 years, is shown by the official records to have been employed in Capt. Lyman L. Stevens's company, Col. George A. Smith's regiment of cavalry, Nauvoo Legion, which participated in an expedition against the Utah Indians in the months of August and September, 1853. The organization was not regularly mustered into the military service of the United States, but its members were paid by the State of Utah, which was subsequently reimbursed by the United States for such payments. Those persons whose names appear on the pay or muster rolls for service of thirty days' duration are pensionable under the act of June 27, 1902. The present claimant is recorded as having served from August 16 to September 7, 1853, a period of twenty-three days. As his service was but seven days less than the required time it is believed the benefit of the law should be extended him in the allowance of \$8 per month.

H. R. 17386. Elizabeth F. Stewart, 459 Sixty-third street, Brooklyn, N. Y., is the widow of Hill R. Stewart, alias Hill Stewart, who served in the United States Navy, practically continuously from December 19, 1871, to October 18, 1901, when he was retired as a quartermaster, third class. She applied for a pension November 14, 1908, alleging the sailor's death, on November 9, 1908, from disease of heart and kidneys, as due to his naval service.

That claim was specially examined and rejected December 13, 1909, on the ground that the death cause was not shown to have been due to any cause originating in service and line of duty.

The testimony shows that from the time of his retirement the sailor complained of shortness of breath, and that such condition was plainly apparent. He also complained of pains in the back. He was under medical treatment during the last year of his life. The physician who attended him states that when he was first called the sailor was suffering from dropsy, shortness of breath, and upon examination he found him suffering from asthma, Bright's disease, and heart disease. With the asthma he had chronic bronchitis. The witness states that the ailments were chronic when he first treated the sailor. The heart disease was valvular. He states specifically that he found no evidence of syphilis or any other form of venereal disease; that the immediate cause of death was general dropsy and heart failure; that the super-inducing cause of the dropsy was Bright's disease and heart disease, and that the Bright's disease was the result of kidney trouble, which had its origin long before the physician saw him. The physician states also that the asthma and bronchitis were factors in the death cause.

The naval records show that the sailor's habits for sobriety were uniformly good. He was treated in December, 1871, and January, 1872, for acute rheumatism; in January and February, 1876, for orchitis, result of gonorrhea; in April and May, 1879, and March, 1880, for syphilis; in July, August, and September, 1884, for rheumatism; in December, 1889, for hernia; in April, 1892, for rheumatism; in April, 1899, for catarrh; and in August, 1901, for catarrhal bronchitis.

The widow petitioner was married to the sailor July 3, 1894. She is about 48 years of age, is without any means of support, and by reason of ill health is physically disqualified from earning a livelihood by manual labor. The evidence shows that she is supported, in part, at least, by her daughter by a former husband, who is a waitress in a restaurant.

From the evidence it is reasonably well shown that the sailor's death resulted from his naval service, and your committee respectfully recommend favorable action and the allowance of a pension of \$12 per month to the widow.

H. R. 19600. David G. Connell, Acissa, Jefferson County, Fla., was a private of Captains Oliver's and McElroy's companies, Florida Volunteers, from March 18, 1840, to November 5, 1840, and from March 14, 1841, to April 21, 1841, in the Florida Seminole Indian war. He is receiving a pension of \$8 per month, the rate allowed the survivors of said war.

The gentleman who introduced the bill states that the soldier is so disabled both mentally and physically as to require the daily attention

of others; that he is incapable of making an affidavit without assistance; that he and his aged wife, the latter stricken with something like paralysis, live in a small home and have hardly any other visible means of support; that this statement is made of his own personal knowledge, and he asks that same be taken instead of an affidavit of the soldier. The age of the soldier is shown to be about 90 years.

In view of his age and poor financial condition and following the precedents in many cases of survivors of the early Indian wars and disturbances, the committee recommend that the pension of this soldier be increased to \$16 per month.

H. R. 19827. John Da Silva, 327 South Fourth street, Brooklyn, N. Y., was an ordinary seaman on board the *Savannah*, United States Navy, from February 20, 1844, to September 22, 1847, and participated in the war with Mexico. He also served from January 16, 1862, to July 22, 1862, as a musician in the Seventieth New York Infantry during the civil war. He is now in receipt of a pension of \$20 per month by reason of his first stated service. He is aged 85 years. His sworn statement accompanying the bill, together with that of a physician, is to the effect that he is totally disabled by the infirmities of age and a complication of diseases. It is also shown that he owns no property, real or personal, but that he and his wife, who is almost blind are wholly dependent upon the allowance granted him by pension.

In view of the great age of the claimant and his penury and physical necessities, your committee recommend an allowance of \$30 per month, which will be in accord with precedents.

H. R. 19879. Mary Elseser is the former widow of Valentine Steil, who served in the United States Marine Corps from December 15, 1865, to July 9, 1871, and as sergeant of Battery C, First Regiment, United States Artillery, from September 7, 1871, to July 4, 1876. He died August 27, 1877, of disease contracted in the latter service and in the line of duty.

The widow was allowed pension at the rate of \$8 per month, which she received until June 10, 1880, when she remarried to Louis Elseser. No person now receives any pension on account of the soldier's service and death. Mrs. Elseser was married to her soldier husband, Valentine Steil, July 24, 1874, and therefore was his wife during a considerable part of his service. Because of her second husband's fault she obtained divorce March 28, 1905, and is now left without means of support aside from her own labor. She is aged 51 years. She applied for renewal of her pension under the act of March 3, 1901, and her application was rejected May 23, 1905, for the reason that the fatal disease of her soldier husband was not incurred during the period of his service in a war.

Medical evidence is filed with the bill showing the claimant almost wholly incapacitated for manual labor, yet dependent on it for her livelihood. Other evidence with the bill shows her to be a person of good character and deserving the bounty of the Government. It is believed by your committee that the facts in the case warrant the renewal of the pension of \$12 per month, and they so recommend.

H. R. 21099. John Young Rankin, sr., Brownwood, Brown County, Tex., served as corporal in Captain Boggess's Company A, Mounted

Battalion Texas Volunteers, from December 23, 1854, until honorably discharged March 22, 1855, in the Texas and New Mexico Indian war. He is receiving a pension of \$8 per month, the rate allowed by law to the survivors of said war.

The gentleman who introduced the bill vouches for the reliability of a statement accompanying the bill to the effect that the soldier is possessed of no real estate and no property which bears an income; that his age (76 years) and infirmities render him unable to gain a livelihood by manual labor, and that his only income is derived from his small pension.

There are many precedents for increasing the pensions of the survivors of the early wars and disturbances, and in view of the claimant's age and financial condition a rating of \$16 per month is respectfully recommended

H. R. 21560. John Klay, Soldiers' Home, Orting, Pierce County, Wash., was a private soldier of Company E, Ninth Regiment United States Infantry, from January 6, 1857, until honorably discharged at Cantonment Wright, Washington Territory, January 6, 1862.

He is a pensioner under the general law at the rate of \$6 per month, by reason of a gunshot wound of the left thigh received in action with hostile Indians May 17, 1858.

The official records state that a command consisting of 3 sergeants, 2 corporals, 1 bugler, and 19 privates formed a portion of a command which left Fort Walla Walla, Wyoming Territory, on the 6th of May, and marched a hundred miles north and west into the Spokane country. About 8 o'clock on the morning of the 17th of May the command was attacked by some 1,000 Indians, the action being very warm for six hours; after that the fire abated, but was continued until dark. On the night following the action a forced march was commenced, and in twenty to twenty-two hours 80 to 85 miles were made.

Soldier applied for increase of pension May 25, 1908, but his claim was rejected August 25, 1908, upon medical grounds.

Examination by the board at Tacoma, Wash., July 15, 1908, shows soldier suffering from other disabilities, namely, rheumatism, varicose veins, and disease of heart, for which rates of \$8, \$4, \$10, and \$8 per month, respectively, were recommended. These, however, are not factors in his claim as he is unable to show that they resulted from his military service. The same though rendered during the period of the civil war was in a locality remote from its scene. He therefore has no title to a service or age pension. There being no law which affords him relief, he appeals to Congress in his old age (74 years) and infirmity for relief.

Dr. A. Osburn files an affidavit with the bill stating that the hernia is quite impossible of retention by truss because of its great size; that injury to spine has resulted from same, which, together with rheumatism, has totally disabled him for any manual labor.

Other evidence, including the soldier's sworn statement, shows that he is a man of good character, having no means of support save his small pension.

In view of the serious disability of the soldier and the fact that his wound was received in battle, the allowance of a pension of \$16 per month is recommended.

The passage of the bill is respectfully recommended.

On page 1, strike out all of lines 6 to 8, inclusive. This is the case of John G. Patton (H. R. 1068). The soldier had three months' service in the Spanish war. From his own statement it is shown that his disability is not due to service. A pension in this case would practically be a service pension for service in the war with Spain. Hence your committee recommend that the item be stricken from the bill.

On page 2, strike out all of lines 12 and 13. This is the case of Arthur T. Whipple (H. R. 6017). In this case the soldier had eleven days' treatment for fever, three days' treatment for diarrhea, and three months' treatment for syphilis, and it is probable that his poor health is due to that cause. The House makes no rate, and if the examination by the board of surgeons showed no disability from malaria, the act would be inoperative. Hence your committee recommend that the item be stricken from the bill.

On page 2, strike out all of lines 14 to 17, inclusive. This is the case of William Canady (H. R. 6566). In this case there is nothing in the evidence to show that disability is due to service, as shown by the House report, and the pension would practically be service pension for service in the war with Spain. Hence your committee recommend that the item be stricken from the bill.

On page 2, strike out lines 18 and 19. This is the case of Albert E. Longman (H. R. 6655). In this case the soldier is unable to prove kidney trouble due to service, and no ratable degree of disability can be found independent of injury to back received since soldier was discharged from the service. The House bill does not carry any rate, and in view of the evidence submitted your committee are of the opinion that allowance of pension in this case would practically be service pension for service in the war with Spain.

On page 3, strike out all of lines 3 to 6 inclusive. This is the case of Biddy Lockwood (H. R. 7704). The beneficiary in this case is the mother of a soldier who was killed by a street car while on a pleasure ride. The father of the soldier is living with the mother. An allowance of a pension in this case would practically mean congressional recognition that injuries received while away from command on pleasure were injuries received in service. Hence your committee recommend that the item be stricken from the bill.

On page 4, line 18, strike out the word "twenty" and insert in lieu thereof the word "thirty." This is the case of John A. Rafter (H. R. 15985.) Your committee is reliably informed that this beneficiary is without means of support of any kind, and as it appears that he is totally disabled by reason of disabilities received in service in the army, it is believed that he should receive the general law rating of \$30 per month.